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## NOTES.

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### STREET RAILWAY FRANCHISES IN THE CITY OF BERLIN.

THE relations between the city government of Berlin and the local railway companies occupying the streets of that city are full of interest to the students of municipal administration the world over, and no period in the history of these relations has been more interesting than the last five years.

The city of Berlin found itself in the middle of the nineties with an antiquated street-car system equipped with horse power, poorly developed, with small cars, short lines, infrequent service and high fares.

The system was chiefly in the hands of two private companies, the so-called Great Berlin and the New Berlin companies, whose charters ran until the close of the year 1911, having been granted in 1881-1883, in the days before electricity was seriously thought of as a possible mode of traction.<sup>1</sup>

The demand for a radical improvement in the conditions of local transportation had been growing with rapid strides during the latter part of the eighties, and with the general and successful introduction of electricity in so many cities this demand had become irresistible by the middle of the nineties.

But the city was in an unfortunate condition for securing the improvements so imperatively demanded. It had not reserved the right when it granted the franchises of requiring the companies to introduce a new mode of traction in case one should be discovered or invented. The companies had a very good property, paying from 15 to 20 per cent. dividends, and they saw no reason why they should run the risk of putting in a new mode of traction when their franchises

<sup>1</sup> The Great Berlin Company had in 1897 a total mileage of track (counting double track as single) amounting to a little over one hundred miles, an income of 17,354,399 marks, and paid a dividend of 16 per cent; carrying 158,435,666 passengers. The New Berlin Company had only a little over twenty miles of track and carried only 22,732,873 passengers. The total payment of the Great Berlin Company to the city amounted to more than \$400,000; that of the New Berlin to less than \$35,000.

expired so soon — those of the longest duration running some seventeen years. They were willing to introduce electricity on the condition that they could get what they considered a reasonable extension of their franchises.

In answer to a steadily rising wave of public indignation over the slow and inconvenient facilities offered by these companies, the city council appointed in the year 1895 a special commission made up of members of the administrative board and of the city council for the purpose of investigating the whole question of the policy of the city in regard to local transportation. This commission sent some of its members on a tour of exploration through Germany to examine the actual working of the systems introduced into the leading German cities. They came home strongly in favor of the introduction of the system of electric traction upon all the street railways of the city at an early date as possible. The special commission, after examining all the local conditions, conferring with the street-car companies, calculating and estimating the relative advantages of different schemes of co-operation between the city and the companies, finally agreed upon the draft of a new contract, and recommended to the administrative board that the city propose this contract to the companies. After some changes on the part of the administrative board it was approved and recommended to the city council for acceptance. The city council accepted it in substantially the form recommended by the administrative board, and after being accepted by the companies the final contracts were signed on January 19, 1898.

It is interesting to note that while the commission was testing the various systems of mechanical traction, such as the system of electricity, steam, compressed air, etc., it announced that a public competition would be held among those parties who were ready to equip the street railway lines with their particular mode of traction. They expected at the time to have at least two or three different systems of mechanical traction entered for competition, but when it came to the final test nobody appeared but those who offered electricity. Consequently, the commission favored the employment of electricity as the system of mechanical traction since it possessed, in their opinion, altogether superior advantages to any other method proposed or mentioned.

This commission also went very extensively into the subject of the best system of electric traction, whether the overhead trolley, the

underground trolley, or the system of storage batteries should be accepted as the basis.

The system of storage batteries was rejected as being entirely too expensive. The street-car companies would not listen to the proposition to adopt as a rule the storage battery system, saying that it would be impossible to introduce it upon their lines, unless the city would give up all the payments into the city treasury from the companies, and unless the city would contribute to the expense of running the lines or permit an increase in the fares. These, of course, were propositions which the city would not consider for an instant. The system of underground trolley as a general system was also rejected, seemingly for three reasons :

1. The great expense connected with making the tunnels.
2. The great inconvenience to traffic, and the danger to health arising from tearing up the streets.
3. The difficulty of keeping the channels dry and preserving them from flooding, owing to the general topography of the city.<sup>1</sup>

In addition it was felt that the existence of such tunnels in the streets was a source of danger to the health of the community. The overhead trolley was then accepted as the method of traction to be employed wherever feasible. In some portions of the city, however, the provincial police authorities or the general government would not allow the use of the trolley, and, consequently, some combined system had to be adopted for certain of their lines. As a result a combined system of trolley and storage battery was adopted. The storage battery was of such a form that the electricity could be taken from the trolley wire while the car was running on the portion of the line equipped with overhead trolley, so that the batteries could be charged without any loss of time. The further principle was adopted that the two great companies should be consolidated, and thus as large a proportion of the street railway mileage as possible should be brought under the control of a single company.

The following are the more important provisions of this contract :

The franchises of these two companies were extended to the first of January 1920—an extension of eight years, and they were allowed to add the freight business to that of carrying passengers. The companies were to convert within five years after the signing of the contract the entire mileage

<sup>1</sup>In some of the later reports the city authorities state that the system of underground trolley so far as tried in Berlin had proved a success.

of their system from horse to electric traction, and all extensions or new lines were to be equipped in the same way.

Within three years after the signing of the contract the companies were to introduce a uniform charge of 10 pfennigs (2.38 cents) for a single unbroken trip either within the city or from any point within the city to the termini of the lines in any of a specified list of suburban towns—a list which included all the more important suburbs in the immediate neighborhood of Berlin. Special reduced rates were to be granted for school and commutation tickets, and upon demand of the city authorities working-men's cars should be run at a reduced rate in the morning and evening hours on such lines as the city authorities shall indicate. This uniform charge of 10 pfennigs went into effect January 1, 1901.<sup>1</sup>

The companies agreed to organize and maintain for the benefit of their employees a pension fund similar to those maintained by the state and nation in similar enterprises; the plan of which was to be approved by the authorities. They also agreed that the motormen should not be employed, as a rule, more than ten hours a day.

For the use of the city streets the companies are to pay a remuneration equal to 8 per cent. of their gross income from all business—passenger and freight. After paying a dividend on all existing capital of 12 per cent. per year, and of 6 per cent. on all new capital actually expended in the future undertaking for conversions, extensions, etc., the further profits are to be divided equally between the city and the company. This arrangement was to go into effect as soon as one half the mileage should be converted from horse to electric traction, and in no case later than four years from the time of signing the contract. As a matter of fact, it went into effect on the first of January 1901.

The companies are, moreover, required in general to pave and keep in repair, at their own expense, the streets for a distance of thirty centimeters on each side of all rails laid in the streets wherever the pavement is permanent. When new lines are laid in the streets equipped with temporary pavement, the company must pave and maintain the entire space between the rails and for a distance of sixty-five centimeters beyond the outer rails.

At the end of the period for which the franchise is granted, *i. e.*, January 1, 1920, the roadbed and equipment, including all poles, wires, etc., are to revert to the city free of charge. This would also include any waiting-rooms erected upon the land belonging to the city. In case the license is revoked during the period for which it is granted, under the conditions set forth in the contract, the city has the same claim upon the entire roadbed and equipments of the company, without being liable to make any remuneration therefor.

<sup>1</sup> This did not mean much reduction to the companies since the average fare received under the old system was less than 11 pfennigs.

The city retains for itself also the right to acquire from the suburbs through which the lines run the same right to the property of the road as is conceded within the city by this provision of the contract.

Besides the lines already completed the contract grants or confirms franchises for additional lines, and the company agrees to construct any or all of these lines upon the demand of the city authorities.

In addition to the lines conceded, the city has the right to demand the construction of 150 kilometers of track, either single or double at the option of the city within the lifetime of the franchise. For all portions of this additional mileage required between 1902 and 1907 the city shall pay one third the cost of construction; for all the lines required between 1908 and 1913, one half the cost; and for any required after 1913, either the entire cost of construction or a contribution to the running expenses — as the city and the company may agree.

The city is also authorized to require at any time, when in its opinion the traffic demands it, the running of additional cars, and the company agrees to comply with the general police regulations as to overcrowding, etc., which may be issued by the higher police authorities (not under control of the city), without thereby acquiring any right or claim against the city for remuneration or reimbursement of expenditure. The companies also agree to retire the style of cars equipped with the running foot-board on the outside.

The city authorities are authorized to require the heating of cars, the heating of waiting rooms, and similar matters pertaining to the comfort of the public.

In addition to the general requirements issued by the police authorities for all such undertakings, the companies agree to follow the special directions of the city authorities which are intended to prevent accidents in the operation of their lines. A schedule of regulations relating to this matter is appended to the contract and made a part of it.

The companies, moreover, are required to take their power at such points and from such parties as the city authorities indicate. The city pledges itself to secure the lowest possible price for such power, and also pledges itself, in case a reasonable price cannot be obtained, to permit the companies to erect their own power houses under regulations to be prescribed by the city authorities, unless some other arrangement can be made which shall be satisfactory. This provision was inserted because the city is opposed to the useless multiplication of power houses and similar undertakings within the city limits.<sup>1</sup>

<sup>1</sup> The city requires the companies to take their power from the General Electric Works which themselves pay a large bonus to the city. Thus the latter profits again at the expense of the companies. The General Electric Works paid during the fiscal year ending March 31, 1899 to the city (1) 10 per cent. of its gross income, 475,000 marks; (2) 200,000 marks additional as the city's share of its net profits; and (3) 750,000 marks for the use of the streets — a total of 1,435,000 marks which sum will be largely increased by the extension of electric traction. The city has the right to take over those works on certain conditions, and it is seriously considering doing so.

The companies are also made responsible for all accidents connected with the conversion and for all damages which may result to any property—public or private, as a result of their own operation.

The above outline represents the chief features of the agreement between the city and the companies. The contract, however, is drawn with great care, and goes into all the details necessary to safeguard the interests of the city at every point.

Certain provisions are made to enable the city to secure the carrying out of this contract on the part of the companies.

In the first place, the companies are required to give the city authorities any information desired as to the cost of conversion, construction and operation. The leading object of this particular provision is to enable the city authorities to secure such information in regard to the operation of these street railways as will put it in a position to make favorable terms in case of a renewal of the lines, or enable it to operate the lines itself in case it should choose to take them over at the expiration of the license. A fine is provided for every refusal of the companies to give this information, and as the city may make this request as many times during the day as it desires, and fine for each time the request is made and not replied to, it has a practical means of bringing the companies to terms.

In the second place, the city has the right to examine all the books of the companies through the medium of a sworn and public certified accountant at any time. For this purpose the books of the companies shall always be open to the examination of such city accountants in the offices of the companies. If the companies fail to carry out the agreement on their part, the city is authorized to revoke the license, and then, further, take possession of the lines, or a portion of the lines, and operate on its own account, or lease the lines or portions of the lines to a third party, or require the companies at their own expense to take up their tracks and restore the road to its previous condition.

In case the city revokes the license for one line, or a portion of a line, and undertakes to operate the line itself, or to lease it to a third party, the companies are obliged to make traffic arrangements with the city or its lessee, which will enable this line or portion of the line, to be operated exactly as if it were a part of its own system.

The companies are, moreover, obliged to permit the use of any one of its lines for a distance of 400 meters by any other line to which the city may concede the right, provided that the line thus desiring track

privileges shall pay a reasonable sum—this to be fixed by the city, subject to appeal to the board of arbitration.

The companies are required to put up a deposit of 200,000 marks in marketable stocks or bonds, subject to the disposal of the city. In all cases where the city authorities have the right to inflict a fine for failure to comply with the contract, they are authorized to sell from this fund a sufficient number of stocks or bonds to realize the fine, and upon due notice the companies must immediately make this deposit good to the amount of 200,000 marks.

In all cases of dispute between the city authorities and the companies, in which the city authorities are not authorized by the express terms of this contract to decide the dispute themselves, the matter shall be left to a court of arbitration. This court shall be constituted for each individual case of dispute by from three to five judges, at the option of the party appealing to the court. Each of the parties names an equal number of judges, and the judges so selected choose an additional judge, who shall preside over the court. In case either party fails to appoint its judges within a given time the other party is authorized to do so.

The companies are not permitted to cede any of their rights or privileges to a third party, without the consent of the city authorities, and the companies agree to reimburse the city for any damages collected by private individuals, because of rights or privileges conceded to the companies.

It will be seen from a study of the above provisions that the city has aimed at securing, in the first place, better facilities for local transportation. These are secured by the introduction of electricity as the motive power, by a large increase in the mileage of the lines, and by right of the city to insist on more frequent trips whenever in its opinion the traffic demands it.

The old company had succeeded in getting hold of all the most desirable streets. Where it did not care to construct a line it got a concession which would keep other lines out. In this new contract the city insisted that these lines should be built whenever the authorities should demand it. As a penalty for not constructing the line for which it had received a concession the city may either revoke the concession, or it may construct the line itself, at the cost of the company, and operate it at the expense of the company, or it may grant it to a third party. In either of these last cases the company is bound to



permit the full use of its other plant, so far as it may be necessary to the proper working of the new line. In this way the city can protect itself against any attempt of the companies to prevent competition by getting grants for lines which they have no intention of constructing. If the company asks for a concession and the city grants the request, it can compel the company to take action under the grant. It will be noted that the lines mentioned under this head, viz., all lines for which the companies have obtained, or may obtain concessions at their own request, must be constructed entirely at the cost of the companies.

A further extension of facilities is rendered possible by the right of the city to require the construction of 150 kilometers of additional line on the terms indicated in the contract.

It will be noted that the city does not bind itself to grant no further franchises to other companies. On the contrary, it has full power to grant any new concessions it pleases, or to undertake on its own account the construction and operation of additional lines. As the old companies had practical control of the best streets in the interior of the city, and this right prevented the convenient access to the center by the new lines, the provision was inserted that other lines might use the tracks of the existing companies to the extent of 400 meters, in return for a fair compensation—the amount to be decided by the city authorities. This opened the way for competing lines to reach the center of the city on existing lines. There was a long and earnest dispute over this clause in the contract. The city desired a longer distance, but the companies refused to yield on this point.

The contract aims, furthermore, at securing cheap transportation. Under the old system, which was really a sort of zone system, there were practically stretches for 5 pfennigs (1.19 cents). Then the fare rose by zones to 20 pfennigs, to 25 and even to 30. The new arrangement provides for a uniform fare for a single trip. No transfers are allowed. Some of these lines upon which single fares are good exceed 5 miles in length, though I believe only one exceeds six. A person who finds it necessary to transfer from one line to another on his trip must pay the second fare. Commutation books are issued at the rate of 6 marks per month for any one line, and the book may be made good for any additional line upon the payment of 2 marks additional per month, and a commutation book good for any number of trips on all the lines of the company is sold for 15 marks per month. The city is furthermore authorized to require cheaper rates good for

special workmen's cars. But no action has as yet been taken in this matter.

It will be seen that this constitutes a very reasonable price for local transportation, and the city found it necessary to make some concessions to the street car companies in other directions, in order to secure these lower fares.

The other important part of this railway policy is a reasonable remuneration to the city for the use of its highways. This takes the form, as noted above, of an 8 per cent. levy upon the entire gross income of the company from passenger and freight service, and of an equal share in profits exceeding a 12 per cent. dividend of the capital employed by the companies at the time of the signing of the contract, and a 6 per cent. dividend upon all the capital actually employed in the conversion of the lines, the extensions and additions. As one of the companies consolidated had up to the signing of the contract paid no dividends upon its stock at all, it is hardly probable that the city will realize from this provision any important income during the period of the present leases, but the city authorities feel that they ought to guarantee in some way a share in profits which might become exorbitant.

There might be a great difference of opinion as to how net profits are to be estimated. But the contract specifies that they are to be determined according to the method presented by the general law relating to corporations and by the statutes of the companies, as they were in force at the time of drawing the contract. Since the books of the companies are open to the examination of the city, and the German laws regulating corporations are very strict, the means are provided for securing a fair treatment in this matter from the companies.

These two companies together have more than 2000 cars, and will carry during the present year 1901 about 230 millions of passengers. The mileage is now about two thirds electric and one third horse traction.

The city could probably have made better terms with the companies if it had entire control over the question of franchise. But the so-called small-road law of 1892 provided a method by which the consent of the higher supervising authorities can be substituted for the consent of local authorities, wherever the companies applying for privileges may desire to appeal from local to general authorities, and the latter choose to take the matter in charge. The possibility that the

local companies applying for franchises or desiring to convert their method of traction may appeal if conditions are too hard, exercises a decided pressure upon the local authorities to come to terms with such companies, since the interference of the provincial or state officials is as little relished in Germany as that of similar officials here.

In the case of Berlin the state interfered recently in the case of one road and extended its franchise for fifty years on terms set by the government against the will of the city.

The matter is still further complicated by the fact that the so-called police authority—that is, the right to pass an ordinance to safeguard the health, safety and comfort of the public is largely conferred in Berlin not upon the City Council, but upon the Chief of Police, appointed by the government. He may refuse his consent, for example, to the use of electricity altogether, or to the use of some particular system, such as the overhead trolley, or underground trolley, or the storage battery. He may regulate the number of people in a car, etc. The general railroad authorities must also be consulted, and the Minister of State, officially superior to the Chief of Police, may also put in a veto on certain policies.

As a result the city in drawing up a proper contract must keep in mind not only its own interests and the attitude of the companies, but also the probability of the approval of the higher authorities for the whole plan. In the negotiation for the existing contract between the companies and the city, the former threatened more than once to go to the higher authorities for their franchises, and to pay no more attention to the city.

On the whole, considering the condition in which the city found itself in the year 1895 and the vantage ground held by the companies, the arrangement described above cannot be considered an unreasonable exploitation of the city's interests, particularly as the city has the means of preventing an undue overreaching on the part of the companies by these various means of control vested in its hands.

The signing of these leases, however, aroused great public excitement, as it was held to be a practical vesting of the control of street railway facilities of the city of Berlin for a period of twenty years to come in the hands of one company. The continued criticism of the city authorities for having entered into this arrangement, combined with a series of strikes on the part of the employees against what they felt to be an unreasonably grasping policy on the part of the companies,

has lead the city council within the past year to a declaration that it will not favor the grant of any more privileges to private companies. And as public sentiment in the city has drifted steadily and persistently toward public ownership and control, the city council has requested the administrative board to prepare a scheme of a new complex of street car lines to supplement, not to compete with, the existing complex—a system which can be constructed, owned and operated by the city itself.

After the contract with the above companies was signed, the city took up the consideration of a large number of applications for franchises and concessions which had been made by other companies during the negotiations with the two great companies. Some of these were from companies whose lines ran out into the suburbs far beyond the city limits, and concessions were granted to a considerable number. The grants are formulated in definite contracts, modeled after that adopted after such full discussion between the city and the consolidated company; though in most cases a more favorable arrangement was made for the city in the matter of sharing profits—the city taking in all cases one half the profits after 6 per cent. dividend has been paid on capital actually invested.

In order to define more exactly the term *net profits* as used in these contracts the following provision was inserted. The net profits are to be computed according to the provisions of the general law, observing also the following:

Five per cent. of the profits may be deducted and added to the reserve fund—until, and no longer than, it amounts to 10 per cent. of the capital stock of the company. As remuneration for officers, which consists in percentages of the net profits, there may be set aside for the board of control not more than 5 per cent. of the residue of net profits remaining after the deduction from net profits of a 4 per cent. dividend on the capital stock; and 2 per cent. of the same amount for each member of the executive committee. Only the ordinary sums allowable for depreciation are to be deducted. No further deduction shall be made either as running expenses, or for special reserve funds, or renewal funds, or sinking funds, or anything of the sort until after the city shall have received its due share.

It is further of interest to note that when the city called for bids to construct and operate a complex of additional lines during the year 1899, the existing companies offered still better terms for the concessions

than those indicated above. They offered from 10-25 per cent. of the gross income of the new lines; but the city has decided that it will ask permission from the general government to construct, own, and operate these new lines itself.

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## THE PENSION SYSTEM OF THE CHICAGO AND NORTH-WESTERN RAILWAY COMPANY.

At a meeting of the board of directors of the Chicago and North-Western Railway Company, on December 12, 1900, President Hughitt presented a plan for pensioning employees who have rendered the company long and faithful service. The plan was adopted and provision made for its inauguration on the first day of the new year. A pension board of five officials of the company was appointed and an appropriation was made of \$200,000, or so much of it as might be needed.

The plan provides for pensioning all employees who have fulfilled certain conditions, entirely at the expense of the company. In the latter respect the system departs from all beneficiary or insurance plans to which employees are contributors. The pensioners fall into two classes. All employees who have attained the age of seventy years, who have been thirty years in the service of the company, shall be retired and pensioned. This clause is not mandatory in its application to executive officers appointed by the board of directors. All employees sixty-five to sixty nine years of age, inclusive of both years, who have been thirty or more years in the service, and who may have become incapacitated, may be retired and pensioned at the discretion of the pension board.

The size of the pension any one will get depends upon two conditions, the number of years of service and the amount of pay received. To be exact the monthly allowance paid each person granted a pension will be, for each year of service 1 per cent. of the average regular monthly pay for the ten years next preceding retirement. Thus no person pensioned will receive less than 30 per cent. of his salary. To have a concrete illustration of what a man would receive who has just been placed on the pension roll let us assume that his average monthly pay for the ten years next preceding the time of his retirement was \$100, and the years of his service were 31.5, then his monthly pension would be 31.5 per cent. of \$100, or \$31.50. One of the first persons to be